
RICHARD JORDAN and RICKY CHASE,

Plaintiffs,

v.

Civil Action No. 3:15-cv-00295

**MARSHALL L. FISHER, Commissioner,
Mississippi Department of Corrections, in
his Official Capacity; EARNEST LEE,
Superintendent, Mississippi State
Penitentiary, in his Official Capacity;
THE MISSISSIPPI STATE EXECUTIONER,
in his Official Capacity; and UNKNOWN
EXECUTIONERS, in their Official Capacities,**

Defendants.

MOTION TO INTERVENE

COMES NOW Thomas Edwin Loden, Jr., by and through counsel, Merrida Coxwell and Stacy Ferraro, pursuant to Federal Rule of Civil Procedure 24 moves this Court to grant him permission to intervene as a plaintiff in the above lawsuit. In support of that motion, Mr. Loden states:

1. Plaintiffs Richard Jordan and Ricky Chase filed this case against the above-named defendants on April 16, 2015. The complaint seeks declaratory and injunctive relief pursuant to 42 U.S.C. § 1983.

2. Mr. Jordan and Mr. Chase have requested this Court grant preliminary and permanent injunctive relief to enjoin the Defendants, their officers, agents, employees, and all persons acting in concert with them from executing them through unconstitutional means to

prevent defendants from violating their federal constitutional rights under the Eight and Fourteenth Amendments to the United States Constitution.

3. Mr. Jordan and Mr. Chase have requested preliminary and permanent injunctive relief to enjoin the Defendants, their officers, agents, employees, and all persons acting in concert with them from executing Plaintiffs without providing full and complete information about the drugs that Defendants intend to use in their execution, within sufficient time for Plaintiffs to raise any statutory or constitutional challenges to the use of said drugs.

4. As of the filing of this motion, the Defendants have not filed any responsive pleadings. Defendants will not be prejudiced by the granting of this motion.

5. Like Mr. Jordan and Mr. Chase, Mr. Loden is under a sentence of death. The Fifth Circuit Court of Appeals affirmed Mr. Loden's death sentence on February 13, 2015, and denied Rehearing and Rehearing En Banc on March 31, 2015.

6. Thomas Edwin Loden, Jr. is entitled to intervene as a matter of right pursuant to Federal Rule of Civil Procedure 24 (a) because 1) this application is timely; 2) Mr. Loden "claims an interest relating to the . . . transaction which is the subject of the action;" 3) Mr. Loden is "so situated that the disposition of the action may as a practical matter impair or impede [Mr. Loden's] ability to protect that interest" and 4) Mr Loden's interests will not be adequately represented by existing parties. Fed. Rule Of civil P. 24 (a).

7. The "transaction at issue" in this case is the defendant's method of lethal injection and it is presently unknown what method and drugs that the defendants intend to use to execute Mr. Loden. Mr. Loden therefore maintains an interest in the transaction. His interests will not be adequately represented by existing parties, because unless he is a party to the action, an

execution warrant for Mr. Loden can be given effect without regard to Mr. Jordan and Mr. Chase's pending lawsuit.

8. Mr. Loden is entitled to intervene pursuant to Fed. R. Civ. P. 24 (b) because: 1) this application is timely; 2) Mr. Loden's claim . . . and the main action have a question of fact and law in common;" and 3) Mr. Loden's intervention in this action will not "unduly delay or prejudice the adjudication of the rights of the parties." Fed. R. Civ. P. 24 (b)

9. The questions of fact and law in this case are identical to the questions of fact and law in Mr. Jordan's and Mr. Chase's case. Permitting Mr. Loden to intervene in this case rather than requiring him to file a separate action alleging the same cause of action, will promote judicial economy.

10. Counsel for Mr. Loden has conferred with counsel for Mr. Jordan and Mr. Chase, who have no objection to Mr. Loden's intervention in the case.

10. Mr. Loden's proposed Complaint in Intervention is attached to this Motion as Exhibit 1.

WHEREFORE, Thomas Edwin Loden, Jr. respectfully requests that this Court enter its Order granting his Motion to Intervene, and for such further relief as the Court deems appropriate.

Respectfully submitted,
THOMAS EDWIN LODEN, Jr.

By: /s/ Stacy Ferraro
Stacy Ferraro

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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing motion on the following via the Court's ECF system on this the 20th day of May, 2015.

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/s/ Stacy Ferraro
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